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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/581,095	05/31/2006	Reinhard Erwin Jackson	3953001USPCT	5372

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CANADA

05/22/2008

EXAMINER

VENNE, DANIEL V

ART UNIT	PAPER NUMBER
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3617

MAIL DATE	DELIVERY MODE
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05/22/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/581,095

Applicant(s)

JACKSON, REINHARD ERWIN

Examiner

DANIEL V. VENNE

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 13 December 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 8, 10-14 and 22 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 8, 12 and 22 is/are rejected.
- 7) ☒ Claim(s) 8, 10-14 and 22 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 03 August 2007 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☒ Interview Summary (PTO-413)
Paper No(s)/Mail Date: 5/13/2008
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

1. An amendment was received by applicant on 12/14/2007.
2. Claims 8 and 10 are amended.
3. Claims 1-7, 9 and 15-21 are cancelled.
4. Claim 22 is new.
5. This action is supplemental and supersedes the final-rejection mailed on 1/9/2008 as discussed during the phone interview on 5/13/2008 between supervisory patent examiner (SPE) Mr. Joseph Morano and the applicant. As a result, the finality of the office action mailed on 1/9/2008 is withdrawn.

Claim Objections

6. Claim 8 is objected to because of the following informality:

In as much as "a watercraft" is recited on line 2 of claim 8, the phrase "the canoe" on line 4 of claim 8 should be replaced with -- the watercraft -- for consistency.

On line 10 of claim 8, the phrase "in operative position" should be replaced with -- in the operative position -- for clarity purposes.

Claims 10-14 and 22 are also objected to since they depend from claim 8.

Appropriate correction is required.

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 8, 12 and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lewis (US 6165030), in view of Ambrose (US 2983245). Lewis discloses a pedal driven propeller and drive shaft apparatus [10], comprising:

(claim 8a) a substantially quadrilateral frame [102, 104, 106, 108] adapted to be simply placed across the gunwales of a canoe [80] (*adapted to* is considered *capable of* and the device is considered *capable of* being placed across the gunwales [82, 84] of the Lewis watercraft (canoe) [80] (applicant's disclosure also indicates a canoe) without needing clamps, bolts or other devices to secure it in place (the Lewis device is considered capable of being simply placed across and supported by the gunwales of the canoe without necessarily tightening the vice portions [114, 166] of the clamps);

(claim 8c) pedal crank means [12] means mounted forwardly of, and depending from, the quadrilateral frame (see Fig. 2);

(claim 8d) pulley means (second sprocket) [18] pivotally mounted on the quadrilateral frame (see Figs. 3 and 4);

(claim 8e) drive means (first sprocket) [16], transverse drive shaft [44, 46] and flexible cable-drive means [14] to transmit motive power generated by the pedal crank means to the pulley means (the flexible cable-drive means is a chain [14] and applicant's specification -- on page 6, lines 2-3 -- indicates that the flexible cable drive means is an endless chain), the drive means [16] is considered operatively connected to the pedal crank means [12] and to a first end (outboard end) of the transverse drive shaft [44, 46], the flexible cable-drive [14] is considered operatively connected at a first

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end (outboard end) of the transverse drive shaft, and operatively connected at a second end (inboard end) of the transverse drive shaft to the pulley means [18];

(claim 8f) the longitudinal drive shaft means [50, 54] comprises a longitudinal shaft [50, 54] which is considered operatively connected at a first end (top) to the pulley means [18], and at a second end (bottom) to propeller means [52];

The pulley means and longitudinal drive shaft means are adapted to be pivoted (via tilting mechanism [160]), when mounted on the watercraft (canoe), about a horizontal transverse axis so as to raise the propeller means to an inoperable position wherein the longitudinal drive shaft means is substantially parallel to the gunwales, and lower the propeller means to an operative position wherein the longitudinal drive shaft means is at an acute angle (less than 90 degrees) relative to the gunwales.

Lewis does not disclose an operator seat means mounted on the frame (as recited by applicant claim 8b) such that the pulley means lies forward of the operator seat means (as recited by applicant in claim 8d). Ambrose discloses a seat [43] mounted on a frame (3, A) for a pedal driven propeller and drive shaft apparatus (see Figs. 1-3) that can be mounted on a watercraft. The device can also be considered adapted for use in a watercraft having gunwales since the topmost portion of the inner tube float [45] of Ambrose can be considered a gunwale, since a gunwale is the upper edge of a boat bulwark and a bulwark is the outboard upper edge of a boat. Therefore, it would have been obvious at the time the invention was made to a person of ordinary skill in the art to which said subject matter pertains to provide a seat as disclosed by Ambrose for mounting onto the frame of Lewis, in order to create the invention as

claimed by applicant. The rationale would have been to provide a seat mounted onto the frame portion of the pedal driven device of Lewis to facilitate use by an operator in a watercraft having gunwales, regardless of the location of any existing seats.

Regarding the latter part of claim 8f, the propeller means when raised to a horizontal position along the gunwales of the watercraft would be backward (or behind the operator seat means) by an amount that would depend on the forward relative position of the quadrilateral frame with respect to an operator seat mounted on to it and the design length of the longitudinal drive shaft [50, 54]; in as much as applicant's disclosure is silent on the length of the longitudinal drive shaft, this length would be considered an obvious engineering design choice based upon the depth of the watercraft. The routine optimization of drive shaft length would provide the expected result of being able to adapt the device to a variety of watercraft having varying depths. Regarding claim 12, the transverse drive shaft [46] is rotatably mounted in transverse tube means [44] mounted on the quadrilateral frame.

9. Claims 8, 12 and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lewis (US 6165030), in view of Ambrose (US 2983245), and further in view of Ring (US 5168825). Lewis, in view of Ambrose, is considered to disclose all the claimed features as indicated in the rejection above. However, assuming for the sake of argument that applicant's capable language means "in operation" as argued by applicant (the examiner's position is that the claims do not require this), the combination would show everything except the device adapted to be simply placed across the gunwales of the watercraft without needing clamps, bolts or other devices to secure it

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in place, as claimed; Ring teaches a seat [10] mounted on a quadrilateral frame which is adapted for placement over the gunwales of a watercraft (canoe) [16] and can be used without needing clamps, bolts or other devices to secure the seat in place. The seat is also adjustable to accommodate canoes of varying widths or to be moved along the length of the canoe to facilitate loading or to allow for one person paddling of a two person canoe (col. 2, lines 7-11). Therefore, it would have been obvious at the time the invention was made to a person of ordinary skill in the art to which said subject matter pertains to provide a pedal driven device as disclosed by Lewis in view of Ambrose which is adapted to be simply placed over the gunwales of a watercraft without needing clamps, bolts or other devices to secure it in place as is taught by Ring, in order to create the invention as claimed by applicant. The rationale would have been to provide an effective pedal driven propeller and drive shaft apparatus that would fit over the gunwales of the watercraft anywhere along its length to facilitate loading and use by one person in a two person canoe, and would provide the expected result of a simplified attachment to the watercraft that would not require manipulation of fasteners; thereby facilitating installation.

Allowable Subject Matter

10. Given the protracted prosecution in this application and applicant's pro se status, the following claims are considered to contain subject matter allowable over the prior art of record. The examiner has made an earnest effort to identify all patentable subject matter in order to assist applicant in expediting this application to issue.

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12. Claims 10, 11, 13 and 14 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Arguments

13. No arguments were provided with applicant's remarks.

Conclusion

14. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Daniel V. Venne whose telephone number is (571) 272-7947. The examiner can normally be reached between 7:30AM - 4:00PM.


The prior art cited and not relied upon is provided for applicant's use. Applicant, in Jackson (US 6905379 B1), discloses a near similar device but does not claim the same invention as is claimed in this application.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Samuel J. Morano can be reached on (571) 272-6684. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

DWV



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